

AMY S. RAMSEY, Bar No. 315981
ARamsey@littler.com
GABRIEL M. HUEY, Bar No. 291608
ghuey@littler.com
MARGARET A. PARKER, Bar No. 305903
maparker@littler.com
LITTLER MENDELSON, P.C.
633 West 5th Street
63rd Floor
Los Angeles, CA 90071
Telephone: 213.443.4300
Fax No.: 213.443.4299

Attorney for Defendant,
SPRINT/UNITEDMANAGEMENT
COMPANY

FERNANDEZ & LAUBY LLP
BRIAN J. MANKIN (Cal. Bar No. 216228)
bjm@fernandezlauby.com
PETER J. CARLSON (Cal. Bar No. 295611)
pjc@fernandezlauby.com
4590 Allstate Drive
Riverside, CA 92501
Telephone: (951) 320-1444
Facsimile: (951) 320-1445

Attorneys for Plaintiff,
DONOVAN SEBASTIAN

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DONOVAN SEBASTIAN, individually,
on a representative basis, and on behalf of
all others similarly situated,

Plaintiff,

vs.

SPRINT/UNITED MANAGEMENT
COMPANY, a Kansas Corporation, and
DOES 1 through 20, inclusive;

Defendants.

Case No. 8:18-CV-00757-JLS (KES)

CLASS ACTION

**ORDER RE:
STIPULATED PROTECTIVE
ORDER AND FRE 502(D) AND (E)
CLAWBACK ORDER**

Compl. Filed: March 26, 2018
(Removed from the California Superior
Court, Orange County)

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3 1. A. PURPOSES AND LIMITATIONS
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5 Discovery in this action is likely to involve production of confidential,
6 proprietary, or private information for which special protection from public disclosure
7 and from use for any purpose other than prosecuting this litigation may be warranted.
8 Accordingly, the parties hereby stipulate to and petition the Court to enter the
9 following Stipulated Protective Order. The parties acknowledge that this Order does
10 not confer blanket protections on all disclosures or responses to discovery and that the
11 protection it affords from public disclosure and use extends only to the limited
12 information or items that are entitled to confidential treatment under the applicable
13 legal principles. The parties further acknowledge, as set forth in Section 12.3, below,
14 that this Stipulated Protective Order does not entitle them to file confidential
15 information under seal; Civil Local Rule 79-5 sets forth the procedures that must be
16 followed and the standards that will be applied when a party seeks permission from
17 the court to file material under seal.

18 B. GOOD CAUSE STATEMENT

19 This action is likely to involve confidential, non-public, sensitive, and/or
20 proprietary trade secrets, business, employment, tax, financial, and personally
21 identifiable information, documents and other materials for which special protection
22 from public disclosure and from use for any purpose other than prosecution of this
23 action is warranted. Such confidential and proprietary materials and information
24 consist of, among other things, confidential customer information, confidential
25 business or financial information, information regarding confidential business
26 practices, training materials, or other confidential research, development, or
27 commercial information (including information implicating privacy rights of third
28 parties), information otherwise generally unavailable to the public, or which may be

1 privileged or otherwise protected from disclosure under state or federal statutes, court
2 rules, case decisions, or common law. Accordingly, to expedite the flow of
3 information, to facilitate the prompt resolution of disputes over confidentiality of
4 discovery materials, to adequately protect information the parties are entitled to keep
5 confidential, to ensure that the parties are permitted reasonable necessary uses of such
6 material in preparation for and in the conduct of trial, to address their handling at the
7 end of the litigation, and serve the ends of justice, a protective order for such
8 information is justified in this matter. It is the intent of the parties that information
9 will not be designated as confidential for tactical reasons and that nothing be so
10 designated without a good faith belief that it has been maintained in a confidential,
11 non-public manner, and there is good cause why it should not be part of the public
12 record of this case.

13 2. DEFINITIONS

14 2.1 Action: *Donovan Sebastian v. Sprint/United Management Company, and*
15 *Does 1 through 20, inclusive*, Case No. SACV 18-00757-JLS (KES).

16 2.2 Challenging Party: a Party or Non-Party that challenges the designation
17 of information or items under this Order.

18 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
19 how it is generated, stored or maintained) or tangible things that qualify for protection
20 under Federal Rule of Civil Procedure 26(c), and as specified above in the Good
21 Cause Statement.

22 2.4 “HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES ONLY”
23 Information or Items: extremely sensitive “CONFIDENTIAL” Information or Items,
24 the disclosure of which to another Party or Non-Party would create a substantial risk
25 of serious harm that could not be avoided by less restrictive means.

26 2.5 Counsel: Outside Counsel of Record and House Counsel (as well as their
27 support staff).
28

1 2.6 Designating Party: a Party or Non-Party that designates information or
2 items that it produces in disclosures or in responses to discovery as
3 “CONFIDENTIAL.”

4 2.7 Disclosure or Discovery Material: all items or information, regardless of
5 the medium or manner in which it is generated, stored, or maintained (including,
6 among other things, testimony, transcripts, and tangible things), that are produced or
7 generated in disclosures or responses to discovery in this matter.

8 2.8 Expert: a person with specialized knowledge or experience in a matter
9 pertinent to the litigation who has been retained by a Party or its counsel to serve as an
10 expert witness or as a consultant in this Action.

11 2.9 House Counsel: attorneys who are employees of a party to this Action.
12 House Counsel does not include Outside Counsel of Record or any other outside
13 counsel.

14 2.10 Non-Party: any natural person, partnership, corporation, association, or
15 other legal entity not named as a Party to this action.

16 2.11 Outside Counsel of Record: attorneys who are not employees of a party
17 to this Action but are retained to represent or advise a party to this Action and have
18 appeared in this Action on behalf of that party or are affiliated with a law firm which
19 has appeared on behalf of that party, and includes support staff.

20 2.12 Party: any party to this Action, including all of its officers, directors,
21 employees, consultants, retained experts, and Outside Counsel of Record (and their
22 support staffs).

23 2.13 Producing Party: a Party or Non-Party that produces Disclosure or
24 Discovery Material in this Action.

25 2.14 Professional Vendors: persons or entities that provide litigation support
26 services (e.g., photocopying, videotaping, translating, preparing exhibits or
27 demonstrations, and organizing, storing, or retrieving data in any form or medium)
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1 and their employees and subcontractors.

2 2.15 Protected Material: any Disclosure or Discovery Material that is
3 designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL—ATTORNEYS’
4 EYES ONLY.”

5 2.16 Receiving Party: a Party that receives Disclosure or Discovery Material
6 from a Producing Party.

7 3. SCOPE

8 The protections conferred by this Stipulation and Order cover not only
9 Protected Material (as defined above), but also (1) any information copied or extracted
10 from Protected Material; (2) all copies, excerpts, summaries, or compilations of
11 Protected Material; and (3) any testimony, conversations, or presentations by Parties
12 or their Counsel that might reveal Protected Material. Any use of Protected Material at
13 trial shall be governed by the orders of the trial judge. This Order does not govern the
14 use of Protected Material at trial.

15 4. DURATION

16 Even after final disposition of this litigation, the confidentiality obligations
17 imposed by this Order shall remain in effect until a Designating Party agrees
18 otherwise in writing or a court order otherwise directs. Final disposition shall be
19 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
20 or without prejudice; and (2) final judgment herein after the completion and
21 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
22 including the time limits for filing any motions or applications for extension of time
23 pursuant to applicable law.

24 5. DESIGNATING PROTECTED MATERIAL

25 5.1 Exercise of Restraint and Care in Designating Material for Protection.

26 Each Party or Non-Party that designates information or items for protection
27 under this Order must take care to limit any such designation to specific material that
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1 qualifies under the appropriate standards. The Designating Party must designate for
2 protection only those parts of material, documents, items, or oral or written
3 communications that qualify so that other portions of the material, documents, items,
4 or communications for which protection is not warranted are not swept unjustifiably
5 within the ambit of this Order.

6 Mass, indiscriminate, or routinized designations are prohibited. Designations
7 that are shown to be clearly unjustified or that have been made for an improper
8 purpose (e.g., to unnecessarily encumber the case development process or to impose
9 unnecessary expenses and burdens on other parties) may expose the Designating Party
10 to sanctions.

11 If it comes to a Designating Party's attention that information or items that it
12 designated for protection does not qualify for protection, that Designating Party must
13 promptly notify all other Parties that it is withdrawing the inapplicable designation.

14 5.2 Manner and Timing of Designations. Except as otherwise provided in
15 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
16 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
17 under this Order must be clearly so designated before the material is disclosed or
18 produced.

19 Designation in conformity with this Order requires:

20 (a) For information in documentary form (e.g., paper or electronic
21 documents, but excluding transcripts of depositions or other pretrial or trial
22 proceedings), that the Producing Party affix at a minimum, the legend
23 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL—ATTORNEYS' EYES
24 ONLY" to each page that contains protected material. If only a portion or portions of
25 the material on a page qualifies for protection, the Producing Party also must clearly
26 identify the protected portion(s) (e.g., by making appropriate markings in the
27 margins).

1 A Party or Non-Party that makes original documents available for inspection
2 need not designate them for protection until after the inspecting Party has indicated
3 which documents it would like copied and produced. During the inspection and before
4 the designation, all of the material made available for inspection shall be deemed
5 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES
6 ONLY”. After the inspecting Party has identified the documents it wants copied and
7 produced, the Producing Party must determine which documents, or portions thereof,
8 qualify for protection under this Order. Then, before producing the specified
9 documents, the Producing Party must affix the “CONFIDENTIAL” or “HIGHLY
10 CONFIDENTIAL -- ATTORNEYS’ EYES ONLY” legend to each page that contains
11 Protected Material. If only a portion or portions of the material on a page qualifies for
12 protection, the Producing Party also must clearly identify the protected portion(s)
13 (e.g., by making appropriate markings in the margins).

14 (b) For testimony given in depositions that the Designating Party
15 identify the Disclosure or Discovery Material on the record, before the close of the
16 deposition all protected testimony.

17 (c) For information produced in some form other than documentary
18 and for any other tangible items, that the Producing Party affix in a prominent place
19 on the exterior of the container or containers in which the information is stored the
20 legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES
21 ONLY.” If only a portion or portions of the information warrants protection, the
22 Producing Party, to the extent practicable, shall identify the protected portion(s).

23 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
24 failure to designate qualified information or items does not, standing alone, waive the
25 Designating Party’s right to secure protection under this Order for such material.
26 Upon timely correction of a designation, the Receiving Party must make reasonable
27 efforts to assure that the material is treated in accordance with the provisions of this
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1 Order.

2 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

3 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
4 designation of confidentiality at any time that is consistent with the Court's
5 Scheduling Order.

6 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
7 resolution process under Local Rule 37.1 et seq.

8 6.3 The burden of persuasion in any such challenge proceeding shall be on
9 the Designating Party. Frivolous challenges, and those made for an improper purpose
10 (e.g., to harass or impose unnecessary expenses and burdens on other parties) may
11 expose the Challenging Party to sanctions. Unless the Designating Party has waived or
12 withdrawn the confidentiality designation, all parties shall continue to afford the
13 material in question the level of protection to which it is entitled under the Producing
14 Party's designation until the Court rules on the challenge.

15 7. ACCESS TO AND USE OF PROTECTED MATERIAL

16 7.1 Basic Principles. A Receiving Party may use Protected Material that is
17 disclosed or produced by another Party or by a Non-Party in connection with this
18 Action only for prosecuting, defending, or attempting to settle this Action. Such
19 Protected Material may be disclosed only to the categories of persons and under the
20 conditions described in this Order. When the Action has been terminated, a Receiving
21 Party must comply with the provisions of section 13 below (FINAL DISPOSITION).

22 Protected Material must be stored and maintained by a Receiving Party at a
23 location and in a secure manner that ensures that access is limited to the persons
24 authorized under this Order.

25 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
26 otherwise ordered by the court or permitted in writing by the Designating Party, a
27 Receiving Party may disclose any information or item designated "CONFIDENTIAL"
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1 only to:

2 (a) the Receiving Party's Outside Counsel of Record in this Action, as
3 well as employees of said Outside Counsel of Record to whom it is reasonably
4 necessary to disclose the information for this Action;

5 (b) the officers, directors, and employees (including House Counsel)
6 of the Receiving Party to whom disclosure is reasonably necessary for this Action;

7 (c) Experts (as defined in this Order) of the Receiving Party to whom
8 disclosure is reasonably necessary for this Action and who have signed the
9 "Acknowledgment and Agreement to Be Bound" (Exhibit A);

10 (d) the court and its personnel;

11 (e) court reporters and their staff;

12 (f) professional jury or trial consultants, mock jurors, and Professional
13 Vendors to whom disclosure is reasonably necessary for this Action and who have
14 signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

15 (g) the author or recipient of a document containing the information or
16 a custodian or other person who otherwise possessed or knew the information;

17 (h) during their depositions, witnesses and attorneys for witnesses in
18 the Action to whom disclosure is reasonably necessary provided: (1) the deposing
19 party requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they
20 will not be permitted to keep any confidential information unless they sign the
21 "Acknowledgment and Agreement to Be Bound" (Exhibit A), unless otherwise agreed
22 by the Designating Party or ordered by the court. Pages of transcribed deposition
23 testimony or exhibits to depositions that reveal Protected Material may be separately
24 bound by the court reporter and may not be disclosed to anyone except as permitted
25 under this Stipulated Protective Order; and

26 (i) any mediator or settlement officer, and their supporting personnel,
27 mutually agreed upon by any of the parties engaged in settlement discussions.
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1 7.3 Disclosure of “HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES
2 ONLY” Information or Items. Unless otherwise ordered by the court or permitted in
3 writing by the Designating Party, a Receiving Party may disclose any information or
4 item designated “CONFIDENTIAL” only to:

5 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well as
6 employees of said Outside Counsel of Record to whom it is reasonably necessary to
7 disclose the information for this Action;

8 (b) Experts (as defined in this Order) of the Receiving Party to whom
9 disclosure is reasonably necessary for this Action and who have signed the
10 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

11 (c) the court and its personnel;

12 (d) private court reporters and their staff to whom disclosure is reasonably
13 necessary for this Action and who have signed the “Acknowledgment and Agreement
14 to Be Bound” (Exhibit A);

15 (e) professional jury or trial consultants, mock jurors, and Professional Vendors
16 to whom disclosure is reasonably necessary for this Action and who have signed the
17 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

18 (f) the author or recipient of a document containing the information or a
19 custodian or other person who otherwise possessed or knew the information; and

20 (g) any mediator or settlement officer, and their supporting personnel, mutually
21 agreed upon by any of the parties engaged in settlement discussions.

22 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
23 OTHER LITIGATION

24 If a Party is served with a subpoena or a court order issued in other litigation
25 that compels disclosure of any information or items designated in this Action as
26 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES
27 ONLY,” that Party must:
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1 (a) promptly notify in writing the Designating Party. Such notification
2 shall include a copy of the subpoena or court order;

3 (b) promptly notify in writing the party who caused the subpoena or
4 order to issue in the other litigation that some or all of the material covered by the
5 subpoena or order is subject to this Protective Order. Such notification shall include a
6 copy of this Stipulated Protective Order; and

7 (c) cooperate with respect to all reasonable procedures sought to be
8 pursued by the Designating Party whose Protected Material may be affected. If the
9 Designating Party timely seeks a protective order, the Party served with the subpoena
10 or court order shall not produce any information designated in this action as
11 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES
12 ONLY,” before a determination by the court from which the subpoena or order issued,
13 unless the Party has obtained the Designating Party’s permission. The Designating
14 Party shall bear the burden and expense of seeking protection in that court of its
15 confidential material and nothing in these provisions should be construed as
16 authorizing or encouraging a Receiving Party in this Action to disobey a lawful
17 directive from another court.

18 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED
19 IN THIS LITIGATION

20 (a) The terms of this Order are applicable to information produced by
21 a Non-Party in this Action and designated as “CONFIDENTIAL” or “HIGHLY
22 CONFIDENTIAL—ATTORNEYS’ EYES ONLY.” Such information produced by
23 Non-Parties in connection with this litigation is protected by the remedies and relief
24 provided by this Order. Nothing in these provisions should be construed as prohibiting
25 a Non-Party from seeking additional protections.

26 (b) In the event that a Party is required, by a valid discovery request,
27 to produce a Non-Party’s confidential information in its possession, and the Party is
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1 subject to an agreement with the Non-Party not to produce the Non-Party's
2 confidential information, then the Party shall:

3 (1) promptly notify in writing the Requesting Party and the Non-
4 Party that some or all of the information requested is subject to a confidentiality
5 agreement with a Non-Party;

6 (2) promptly provide the Non-Party with a copy of the Stipulated
7 Protective Order in this Action, the relevant discovery request(s), and a reasonably
8 specific description of the information requested; and

9 (3) make the information requested available for inspection by the
10 Non-Party, if requested.

11 (c) If the Non-Party fails to seek a protective order from this court within
12 14 days of receiving the notice and accompanying information, the Receiving Party
13 may produce the Non-Party's confidential information responsive to the discovery
14 request. If the Non-Party timely seeks a protective order, the Receiving Party shall not
15 produce any information in its possession or control that is subject to the
16 confidentiality agreement with the Non-Party before a determination by the court.
17 Absent a court order to the contrary, the Non-Party shall bear the burden and expense
18 of seeking protection in this court of its Protected Material.

19 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

20 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
21 Protected Material to any person or in any circumstance not authorized under this
22 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
23 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
24 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
25 persons to whom unauthorized disclosures were made of all the terms of this Order,
26 and (d) request such person or persons to execute the "Acknowledgment and
27 Agreement to Be Bound" that is attached hereto as Exhibit A.
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1 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE
2 PROTECTED MATERIAL

3 When a Producing Party gives notice to Receiving Parties that certain
4 inadvertently produced material is subject to a claim of privilege or other protection,
5 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
6 Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
7 may be established in an e-discovery order that provides for production without prior
8 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), the parties
9 have reached an agreement on the effect of disclosure of a communication or
10 information covered by the attorney-client privilege or work product protection and
11 incorporate their agreement in Section 14 of this Stipulated protective Order.

12 12. MISCELLANEOUS

13 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
14 person to seek its modification by the Court in the future.

15 12.2 Right to Assert Other Objections. By stipulating to the entry of this
16 Protective Order no Party waives any right it otherwise would have to object to
17 disclosing or producing any information or item on any ground not addressed in this
18 Stipulated Protective Order. Similarly, no Party waives any right to object on any
19 ground to use in evidence of any of the material covered by this Protective Order.

20 12.3 Filing Protected Material. A Party that seeks to file under seal any
21 Protected Material must comply with Civil Local Rule 79-5. Protected Material may
22 only be filed under seal pursuant to a court order authorizing the sealing of the
23 specific Protected Material at issue. If a Party's request to file Protected Material
24 under seal is denied by the court, then the Receiving Party may file the information in
25 the public record unless otherwise instructed by the court.

26 13. FINAL DISPOSITION

27 After the final disposition of this Action, as defined in paragraph 4, within 60
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1 days of a written request by the Designating Party, each Receiving Party must return
2 all Protected Material to the Producing Party or destroy such material. As used in this
3 subdivision, “all Protected Material” includes all copies, abstracts, compilations,
4 summaries, and any other format reproducing or capturing any of the Protected
5 Material. Whether the Protected Material is returned or destroyed, the Receiving Party
6 must submit a written certification to the Producing Party (and, if not the same person
7 or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by
8 category, where appropriate) all the Protected Material that was returned or destroyed
9 and (2) affirms that the Receiving Party has not retained any copies, abstracts,
10 compilations, summaries or any other format reproducing or capturing any of the
11 Protected Material. Notwithstanding this provision, Counsel are entitled to retain an
12 archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts,
13 legal memoranda, correspondence, deposition and trial exhibits, expert reports,
14 attorney work product, and consultant and expert work product, even if such materials
15 contain Protected Material. Any such archival copies that contain or constitute
16 Protected Material remain subject to this Protective Order as set forth in Section 4
17 (DURATION).

18 **14. CLAWBACK AGREEMENT**

19 Pursuant to FRE 502(d) and (e), the Parties agree to and the Court orders
20 protection of privileged and otherwise protected Documents against claims of waiver
21 (including as against third parties and in other federal and state proceedings) as
22 follows:

- 23 (a) The disclosure or production of Documents by a Producing Party
24 subject to a legally recognized claim of privilege, including
25 without limitation the attorney-client privilege and the work-
26 product doctrine, to a Receiving Party, shall in no way constitute
27 the voluntary disclosure of such Document.
28

1 (b) The inadvertent disclosure or production of any Document in this
2 action shall not result in the waiver of any privilege, evidentiary
3 protection or other protection associated with such Document as to
4 the Receiving Party or any third parties, and shall not result in any
5 waiver, including subject matter waiver, of any kind.

6 (c) If, during the course of this litigation, a party determines that any
7 Document produced by another party is or may reasonably be
8 subject to a legally recognizable privilege or evidentiary protection
9 (“Protected Document”):

10 i. the Receiving Party shall: (A) refrain from reading the
11 Protected Document any more closely than is necessary to
12 ascertain that it is privileged or otherwise protected from
13 disclosure; (B) immediately notify the Producing Party in
14 writing that it has discovered Documents believed to be
15 privileged or protected; (C) specifically identify the
16 Protected Documents by Bates number range or hash value;
17 and, (D) within ten (10) days of discovery by the Receiving
18 Party, return, sequester, or destroy all copies of such
19 Protected Documents, along with any notes, abstracts or
20 compilations of the content thereof. To the extent that a
21 Protected Document has been loaded into a litigation review
22 database under the control of the Receiving Party, the
23 Receiving Party shall have all electronic copies of the
24 Protected Document extracted from the database. Where
25 such Protected Documents cannot be destroyed or separated,
26 they shall not be reviewed, disclosed, or otherwise used by
27 the Receiving Party. Notwithstanding, the Receiving Party
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1 is under no obligation to search or review the Producing
2 Party's Documents to identify potentially privileged or work
3 product Protected Documents.

4 ii. If the Producing Party intends to assert a claim of privilege
5 or other protection over Documents identified by the
6 Receiving Party as Protected Documents, the Producing
7 Party will, within ten (10) days of receiving the Receiving
8 Party's written notification described above, inform the
9 Receiving Party of such intention in writing and shall
10 provide the Receiving Party with a log for such Protected
11 Documents that is consistent with the requirements of the
12 Federal Rules of Civil Procedure, setting forth the basis for
13 the claim of privilege or other protection. In the event that
14 any portion of a Protected Document does not contain
15 privileged or protected information, the Producing Party
16 shall also provide to the Receiving Party a redacted copy of
17 the document that omits the information that the Producing
18 Party believes is subject to a claim of privilege or other
19 protection.

20 (d) If, during the course of this litigation, a party determines it has
21 produced a Protected Document:

22 i. the Producing Party may notify the Receiving Party of such
23 inadvertent production in writing, and demand the return of
24 such documents. Such notice shall be in writing, however, it
25 may be delivered orally on the record at a deposition,
26 promptly followed up in writing. The Producing Party's
27 written notice will identify the Protected Document
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1 inadvertently produced by bates number range or hash value,
2 the privilege or protection claimed, and the basis for the
3 assertion of the privilege and shall provide the Receiving
4 Party with a log for such Protected Documents that is
5 consistent with the requirements of the Federal Rules of
6 Civil Procedure, setting forth the basis for the claim of
7 privilege or other protection. In the event that any portion of
8 the Protected Document does not contain privileged or
9 protected information, the Producing Party shall also
10 provide to the Receiving Party a redacted copy of the
11 Document that omits the information that the Producing
12 Party believes is subject to a claim of privilege or other
13 protection.

14 ii. The Receiving Party must, within ten (10) days of receiving
15 the Producing Party's written notification described above,
16 return, sequester, or destroy the Protected Document and
17 any copies, along with any notes, abstracts or compilations
18 of the content thereof. To the extent that a Protected
19 Document has been loaded into a litigation review database
20 under the control of the Receiving Party, the Receiving
21 Party shall have all electronic copies of the Protected
22 Document extracted from the database.

23 (e) To the extent that the information contained in a Protected
24 Document has already been used in or described in other
25 documents generated or maintained by the Receiving Party prior to
26 the date of receipt of written notice by the Producing Party as set
27 forth in paragraphs 14(c)(ii) and 14(d)(i), then the Receiving Party
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1 shall sequester such documents until the claim has been resolved.
2 If the Receiving Party disclosed the Protected Document before
3 being notified of its inadvertent production, it must take reasonable
4 steps to retrieve it.

5 (f) The Receiving Party's return, sequestering, or destruction of
6 Protected Documents as provided herein will not act as a waiver of
7 the Requesting Party's right to move for the production of the
8 returned, sequestered, or destroyed documents on the grounds that
9 the documents are not, in fact, subject to a viable claim of privilege
10 or protection. However, the Receiving Party is prohibited and
11 estopped from arguing that:

- 12 i. the disclosure or production of the Protected Documents acts
13 as a waiver of an applicable privilege or evidentiary
14 protection;
- 15 ii. the disclosure of the Protected Documents was not
16 inadvertent;
- 17 iii. the Producing Party did not take reasonable steps to prevent
18 the disclosure of the Protected Documents; or
- 19 iv. the Producing Party failed to take reasonable or timely steps
20 to rectify the error pursuant to Federal Rule of Civil
21 Procedure 26(b)(5)(B), or otherwise.

22 (g) *With the Court's permission, either party may lodge Protected*
23 *Documents with the Court for in camera review to determine*
24 *the claim of privilege or other protection. The Producing*
25 *Party shall preserve the Protected Documents until such claim is*
26 *resolved. The Receiving Party may not use the Protected*
27 *Documents for any purpose absent this Court's order.*
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- 1 (h) Upon a determination by the Court that the Protected Documents
2 are protected by the applicable privilege or evidentiary protection,
3 and if the Protected Documents have been sequestered rather than
4 returned or destroyed by the Receiving Party, the Protected
5 Documents shall be returned or destroyed within 10 (ten) days of
6 the Court's order. The Court may also order the identification by
7 the Receiving Party of Protected Documents by search terms or
8 other means.
- 9 (i) Nothing contained herein is intended to, or shall serve to limit a
10 party's right to conduct a review of documents, data (including
11 electronically stored information) and other information, including
12 without limitation, metadata, for relevance, responsiveness, and/or
13 the segregation of privileged and/or protected information before
14 such information is produced to another party.
- 15 (j) By operation of the Parties' agreement and Court Order, the Parties
16 are specifically afforded the protections of FRE 502(d) and (e).

17 15. VIOLATION

18 Any violation of this Order may be punished by appropriate measures including,
19 without limitation, contempt proceedings, and/or monetary sanctions.

20 16. MAINTAINING CONFIDENTIALITY OF THE STIPULATED
21 PROTECTIVE ORDER PENDING APPROVAL AND EXECUTION

22 The Parties to the "Stipulated Protective Order and FRE 502(D) and (E)
23 Clawback Order" (hereinafter "Stipulated Protective Order") and all signatories to the
24 "acknowledgment and agreement to be bound" attached as Exhibit A to the Stipulated
25 Protective Order agree to be bound by its terms pending its approval and entry by the
26 Court. In the event that the Stipulated Protective Order is modified, or in the event that
27 a different Protective Order is entered, the Parties agree to be bound by this Stipulated
28

1 Protective Order until such time as the Court may enter such a different Order. It is the
2 Parties' intent to be bound by the terms of the Stipulated Protective Order pending its
3 entry so as to allow for immediate production of Confidential Materials under the
4 terms herein.
5

6 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.
7

8 DATED: October 2, 2018
9

FERNANDEZ & LAUBY LLP

10 By: /s/ Brian J. Mankin
11 Peter J. Carlson
12 Brian J. Mankin
Fernandez & Lauby, LLC
Attorney for Plaintiff Donovan Sebastian

13 DATED: October 2, 2018
14

LITTLER MENDELSON, P.C.

15 By: /s/ Margaret A. Parker
16 Amy S. Ramsey
17 Gabriel M. Huey
Margaret A. Parker
18 Littler Mendelson, P.C.
Attorneys for Defendant
Sprint/United Management Company
19
20

21 IT IS SO ORDERED.
22

23 DATED: October 5, 2018
24



25 Hon. Karen E. Scott
26 United States Magistrate Judge
27
28

1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of
4 _____ [print or type full address], declare under penalty of perjury that
5 I have read in its entirety and understand the Stipulated Protective Order that was
6 issued by the United States District Court for the Central District of California on
7 _____ in the case of *Donovan Sebastian v. Sprint/United Management*
8 *Company, and Does 1 through 20, inclusive*, Case No. SACV 18-00757-JLS (KES). I
9 agree to comply with and to be bound by all the terms of this Stipulated Protective
10 Order and I understand and acknowledge that failure to so comply could expose me to
11 sanctions and punishment in the nature of contempt. I solemnly promise that I will not
12 disclose in any manner any information or item that is subject to this Stipulated
13 Protective Order to any person or entity except in strict compliance with the
14 provisions of this Order. I further agree to submit to the jurisdiction of the United
15 States District Court for the Central District of California for enforcing the terms of
16 this Stipulated Protective Order, even if such enforcement proceedings occur after
17 termination of this action.

18 I hereby appoint _____ [print or type full name] of
19 _____ [print or type full address and
20 telephone number] as my California agent for service of process in connection with
21 this action or any proceedings related to enforcement of this Stipulated Protective
22 Order.

23 Date: _____

24 City and State where sworn and signed: _____

25 Printed name: _____

26 Signature: _____

27 FIRMWIDE:157586503.1 099449.1003
28